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Mark J. Braun, EDD, Executive Director

Routing/Review Approval of Personnel Settlement Agreement

*Please sign/date where indicated below noting the approval or denial of the attached proposed Personnel Settlement Agreement. **After signing, please return to the attention of BOR – General Counsel. ** If "denied," please return to BOR – General Counsel.*

In the matter of: Elizabeth Shirtcliff, Iowa State University

Institutional Staff: Heather Smith & Michael Norton, Office of University Counsel

Office of the Attorney General

Reviewed by (Print Name): *John G. ...*

Reviewer's Signature: *John G. Thompson*

Date: *11/5/21* Reviewed: Redacted:

Institution: *Iowa State University*

Institutional Head's Printed Name: *Wendy Wintersteen*

Institutional Head's Signature: *Wendy Wintersteen*

Date: *11-2-2021* Approve: Deny:

Board of Regents

Executive Director's Printed Name: Mark Braun

Executive Director's Signature: *Mark Braun*
DocuSigned by: FE898DCECBED45B

Date: *11/5/2021* Approve: Deny:

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is made and entered into on the last date written below by and between Dr. Elizabeth Shirtcliff (“Dr. Shirtcliff”) and Iowa State University of Science and Technology (“the University”), on behalf of itself and the Board of Regents, State of Iowa (“the Board of Regents”), and their current and former successors, assigns, subsidiaries, divisions, affiliates, officers, directors, employees, agents, and representatives (collectively referred to herein as “the Parties”).

RECITALS

WHEREAS, Dr. Shirtcliff is employed as a Professor with the University;

WHEREAS, Dr. Shirtcliff and the University desire in good faith to settle fully and finally all differences between them and in facilitating Dr. Shirtcliff’s voluntary resignation from the University;

WHEREAS, the Parties acknowledge and agree that this Agreement does not constitute an admission of wrong-doing or any admission of violations of applicable law, rule, or policy by either Party; and

WHEREAS, the Parties agree that the terms and conditions contained herein are fair, reasonable, and equitable and are the result of an arm’s length negotiation between the Parties.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, which are expressly incorporated by all reference as if fully restated herein, and in exchange for their mutual promises and for other good and valuable consideration and intending to be legally bound herein, the Parties agree as follows:

1. **Resignation and No Reemployment.** Dr. Shirtcliff tenders her resignation from employment with the University to be effective on November 15, 2021. The University agrees to pay Dr. Shirtcliff’s wages through the end of November 2021 and health care benefits through the end of December 2021. Dr. Shirtcliff agrees not to seek or accept employment with the University at any time in the future.

2. **Position Responsibility Statement.** The Parties agree that Dr. Shirtcliff’s Position Responsibility Statement (PRS) will be revised to reflect 100% research for the remainder of her employment period with the University, including Dr. Shirtcliff’s work in her fee for service lab. Dr. Shirtcliff shall not engage or participate in course teaching duties or responsibilities at the University.

3. **Return of University Property and Vacation of Office Space.** To assure the off-boarding process is complete by November 15, 2021, Dr. Shirtcliff agrees to return any and all property belonging to the University (including any electronic equipment or devices,

documents, records, keys, access cards, credit cards, etc.), no later than the end of the business day on Friday, November 12, 2021. Any such items should be accounted for and/or returned to the Dean of the College of Human Sciences (the Dean). Dr. Shirtcliff agrees to coordinate with the Dean, or designee, to have her office cleared of all personal items as soon as possible, but no later than the end of the business day on Friday, November 12, 2021. The University agrees to provide assistance, oversight, equipment, boxes, and other moving items necessary to assist in packing Dr. Shirtcliff's personal items, and it will coordinate with Dr. Shirtcliff to schedule a time to complete this task that is convenient to Dr. Shirtcliff and allows Dr. Shirtcliff sufficient time to transfer her personal items within the time frames stated herein.

4. **Graduate Student Supervision and Advising.** The Parties agree to work together to facilitate the transfer of dissertation advising and supervision of Dr. Shirtcliff's graduate students to other University faculty members.

5. **Unemployment.** The University agrees not to contest any claim for unemployment filed by Dr. Shirtcliff with Iowa Workforce Development.

6. **Grants, Awards, and Program Accounts.** The Parties agree to work in good faith to transition Dr. Shirtcliff's grants and awards to another institution or entity at the end of Dr. Shirtcliff's employment with the University in accordance with the University's standard policies and procedures. The Parties further agree that program accounts will be handled in accordance with University policies and procedures.

7. **Withdrawal of Letter of Direction.** The University agrees to withdraw the June 17, 2021 Letter of Direction issued to Dr. Shirtcliff effective November 15, 2021.

8. **Withdrawal of ICRC Charge.** The Parties stipulate that Dr. Shirtcliff will withdraw her complaint filed with the Iowa Civil Rights Commission and cross-filed with the Equal Employment Opportunity Commission in Case No. 06-21-76673.

9. **Payment.** As consideration for the terms and conditions set forth in this Agreement, the Parties agree that Iowa State University, on behalf of all Released Parties, will pay Dr. Shirtcliff a total gross settlement amount of **Two Hundred Seventy-Five Thousand Dollars (\$275,000)** ("**Settlement Amount**"). The Settlement Amount shall be paid by no later than December 15, 2021. The Settlement Amount is more fully described as follows:

(a) The University shall issue a check in the amount of **One Hundred Eighty-Three Thousand Six Hundred Ninety-Eight Dollars and 53/100 (\$183,698.53)** to Dr. Shirtcliff, without deduction or withholding, in compromise of Dr. Shirtcliff's claims for non-wage compensatory damages, stemming from claims for emotional distress and personal injury damages. The University will issue Dr. Shirtcliff an IRS Form 1099-MISC for this amount.

(b) The University shall issue a check to Fiedler Law Firm, P.L.C. in the amount of **Ninety-One Thousand Three Hundred One Dollars and 47/100 (\$91,301.47)** for payment of attorney fees and expenses. The University will issue Fiedler Law Office

an IRS Form 1099-MISC for this amount.

The Parties agree and understand that any payment made under this Agreement is subject to Iowa Code Chapter 8A.504.

10. **Tax Liability.** Dr. Shirtcliff shall be solely responsible for any and all taxes payable or owed by her that may be due with respect to this payment and shall hold Iowa State University and the Released Parties harmless and indemnify them from any liability thereon.

11. **Dr. Shirtcliff's Covenant Not to Sue.** In consideration of the terms and conditions set forth in this Agreement, the sufficiency of which the parties acknowledge, Dr. Shirtcliff agrees, promises, and covenants that neither she, nor any person, organization, or any other entity acting on her behalf will file, charge, claim, sue, cause, or permit to be filed, charged, or claimed, any action for damages or other relief (including injunctive, declaratory, monetary relief, or other) against the Parties, including their respective affiliates, successors, officers, directors, employees, agents, current or former students, and representatives, whether in their individual capacity or official capacity, involving any matter which occurred in the past up to the date of this Agreement, including any continuing effects thereof, or otherwise involving any claims, demands, causes of action, obligations, damages, or liabilities which are the subject of this Agreement.

12. **Dr. Shirtcliff's Full and Comprehensive Release of Claims.** Dr. Shirtcliff agrees, on behalf of herself and her heirs, executors, administrators, attorneys, and assigns, to hereby waive, release, and forever discharge the Parties, including their respective affiliates, successors, officers, directors, employees, agents, current and former students, and representatives, from any and all known or unknown actions, causes of action, claims, or liabilities of any kind that have or could be asserted against the Parties, and/or any party released herein, arising out of or related to her employment with the University, including but not limited to:

- (a) Any claims arising from any alleged violation by the Parties of any federal, state, or local statutes, ordinances, or common laws, including, but not limited to, the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq.; Title VII of the Civil Rights Act of 1964; 42 U.S.C. § 2000e et seq.; the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 et seq.; the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.; the Equal Pay Act, 29 U.S.C. § 206(d) et seq.; and the Iowa Civil Rights Act of 1965, Iowa Code Chapter 216. Dr. Shirtcliff further waives her right to monetary or other recovery should any federal, state, or local administrative agency pursue any claims on her behalf arising out of or related to her employment with the University. Dr. Shirtcliff further agrees to waive all rights to use any internal grievance or appeal procedure offered by the University with respect to any matter arising out of or related to her employment with the University.
- (b) Claims, actions, causes of action or liabilities arising under any other federal, state, municipal, or local statutes, law, ordinance, or regulation; and/or

- (c) Any other claim whatsoever including, but not limited to: claims for severance pay, sick pay, unpaid wages, unpaid bonuses, unpaid time off, claims based upon breach of contract, breach of the covenant of good faith and fair dealing, wrongful termination, defamation, interference with contract, intentional, and/or negligent infliction of emotional distress, fraud, tort, personal injury, invasion of privacy, violation of public policy, negligence, and/or any other common law, statutory, or other claim whatsoever arising out of or relating to her employment with the University.

Notwithstanding the above, it is agreed and understood that the releases contained in this paragraph do not cover any claims which by law Dr. Shirtcliff cannot waive and any claims to enforce the terms of this Settlement Agreement and Release.

13. **Waiver of Rights under the ADEA.** In consideration of the actions described herein of the Board of Regents and the University, Dr. Shirtcliff voluntarily and knowingly waives any and all rights and claims under the ADEA that may exist before the signing of this Agreement. Dr. Shirtcliff is hereby advised that she has the right under the ADEA to consult an attorney prior to signing this Agreement (which Dr. Shirtcliff has been encouraged to do), that she has a period of at least twenty-one (21) calendar days to consider this Agreement and to the extent that she has signed the Agreement prior to the expiration of that period, she has done so knowingly and voluntarily, and that she is permitted to revoke this Agreement for a period of at least seven (7) calendar days following the signing of this Agreement.

14. **Full and Comprehensive Release of Potential Claims against Dr. Shirtcliff; Covenant Not to Sue.** The Board of Regents and the University hereby covenant and agree that in consideration of the terms of this Agreement, they waive, fully release, and forever discharge Dr. Shirtcliff of and from any and every claim, demand, and cause of action of whatsoever nature which they now have, or may in the past have had, including, but not limited to, any and every claim, demand, and cause of action arising out of Dr. Shirtcliff's duties and obligations related to her employment with the University and promises and covenants not to file, charge, claim, sue, cause or permit to be filed, charged, or claimed, any action for damages or other relief (including injunctive, declaratory, monetary relief, or other) against Dr. Shirtcliff. Notwithstanding the above, it is agreed and understood that the releases contained in this paragraph do not cover any claims or obligations to defend which by law the University cannot waive, and any claims to enforce the terms of this Settlement Agreement and General Release.

15. **No Admission of Liability.** This Agreement is not, and shall not in any way be, construed as an admission of any of the Parties that any of the Parties violated any federal, state, or local laws. The Parties have entered into this Agreement for the sole purpose of resolving the employment concerns so as to avoid the burden, expense, delay, and uncertainties of proceeding through a formal legal process.

16. **Representation of Dr. Shirtcliff.** Dr. Shirtcliff hereby represents and warrants that she (a) has authority to enter into this Agreement; (b) holds any and all claims free and clear of any liens and has not pledged or assigned those claims to any third party; (c) has not commenced or been subject to any bankruptcy or insolvency proceeding that affects or could

affect her rights to accept payment and release claims under this Agreement; (d) has not received any promise of further consideration; and (e) does not know of any other person who holds any rights to sue for the causes of action or the claims subject to the releases made hereunder. Dr. Shirtcliff further agrees to indemnify and hold harmless each of the Parties from and against any and all claims, actions, causes of actions, demands, rights, damages, costs, losses of services, expenses, compensation, taxes, or property damages (including attorneys' fees, expenses, and costs of defense) which any person, partnership, corporation, entity, association, agency, or other organization may bring against them alleging facts and circumstances that are contrary to, inconsistent with, or arising from the breach of, the representations and warranties of this paragraph.

17. **Dr. Shirtcliff Review.** Dr. Shirtcliff acknowledges she was given at least twenty-one (21) days to review and consider this Agreement in its entirety. Dr. Shirtcliff understands that she may voluntarily waive this review period by signing and returning the Agreement prior to the expiration of twenty-one (21) days. The Agreement waives no rights or claims that may arise after its execution. Dr. Shirtcliff further acknowledges that the terms of this Agreement were negotiated by her, through her legal counsel, over a sufficient period of time so that she now has carefully read and fully understands and accepts the terms contained in this Agreement and their legal effect. Dr. Shirtcliff represents that she has been advised to consult with an attorney prior to signing this Agreement and has done so. Dr. Shirtcliff further represents that her decision to sign or not sign this Agreement is her own voluntary decision made with full knowledge of its terms.

18. **Counterparts.** This Agreement may be signed in counterparts. Faxed or emailed signatures will be deemed originals.

19. **Governing Law and Venue.** This Agreement shall be governed by and construed under the laws of the State of Iowa. Each party consents to the personal jurisdiction of the state courts in Iowa with respect to any action seeking to enforce the terms of this Agreement.

20. **Severability.** Should a court of competent jurisdiction declare or determine any provision of this Agreement to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby. It is the Parties' intent that the part, term, or provision declared or determined to be illegal or invalid shall be deemed not to be a part of this Agreement.

21. **Public Record.** The Parties agree that this Agreement is a public record under Iowa Code Chapter 22. The Parties acknowledge that this Agreement is subject to Executive Order 85 and, as such, must be approved by the Executive Director of the Board of Regents and the President of the University, and be reviewed by the Iowa Attorney General, or his designee. This Agreement is not effective until it has received all necessary reviews and approvals. This Agreement will be posted on the Board of Regents' web page.

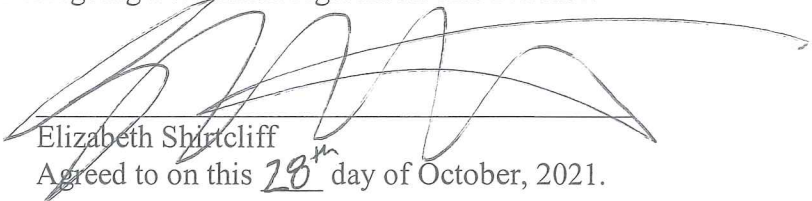
22. **Amendments.** None of the terms or conditions contained herein shall be altered, amended, waived, or abandoned, except by prior written agreement of the Parties.


23. **Entire Agreement.** This Agreement sets forth the entire agreement between the Parties hereto, and fully supersedes any and all prior agreements, discussions, or understanding between the Parties pertaining to the subject matter hereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

CAREFULLY READ THIS AGREEMENT; BY SIGNING BELOW YOU ARE
RELEASING ALL KNOWN CLAIMS. YOU HAVE A PERIOD OF TWENTY-ONE (21)
CALENDAR DAYS TO CONSIDER THIS RELEASE. IF YOU SIGN THIS
AGREEMENT, YOU WILL HAVE UP TO SEVEN (7) CALENDAR DAYS
FOLLOWING THE DATE YOU SIGN IT TO REVOKE YOUR SIGNATURE. THE
RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THIS
SEVEN (7) CALENDAR DAY PERIOD HAS EXPIRED.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Elizabeth Shirtcliff and Iowa State University of Science and Technology, on its own behalf and on behalf of the Board of Regents, have executed the foregoing Settlement Agreement and Release.


Elizabeth Shirtcliff
Agreed to on this 28th day of October, 2021.


Wendy Wintersteen, President
Iowa State University of Science and Technology
Agreed to on this 2 day of ~~October~~, 2021.
November